



FILED

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MICHAEL RODAK, JR., CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-848

JACK A. FUSARI, Commissioner of Labor of the State of
Connecticut, Administrator, Unemployment Compen-
sation Act.,

Appellant,

— v. —

LARRY STEINBERG, CECIL PASKEWITZ, DELIA
TRIANA AND JUAN MIRANDA,

Appellees.

ON APPEAL FROM A SPECIAL THREE JUDGE COURT
FOR THE DISTRICT OF CONNECTICUT

PETITION FOR REHEARING

Appellant-Petitioner

By: CARL R. AJELLO
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Pursuant to Rule 58 of this Court, Appellant respectfully
petitions this Court for an Order (1) vacating its Order of Re-
mand entered January 14, 1975, and (2) granting a limited
rehearing as to the materiality of changes effected by P.A.
74-339 on Connecticut's unemployment compensation law.
The grounds for this petition are as follows:

I.

**The Changes Are Not Material To The Issues Before
This Court.**

After Appellant filed his brief in May of 1974, he became
aware of the passage of P.A. 74-339 which effected changes

in Connecticut's unemployment compensation law.* Appellant's counsel thereupon conferred with co-counsel and with a representative of Appellee's counsel, all of whom concurred in the opinion that said changes were not material to the issues before this Court.*

A. New System of Appeals.

The change to a two (2) tier system of appeals with full time referees concerns only the question of timeliness *subsequent* to the hearing in question. This change would be material only if the Court found that Appellant's seated interview hearing procedures did not meet due process. Thus, the issue of the adequacy of the seated interview hearing procedures prior to such appellate review is not materially affected by this change.

B. Section 14 of P.A. 74-339.

The only relevant changes wrought by Section 14 of P.A. 74-339 are those stated in the following language which can be divided into two parts: (1) "The determination of eligibility by the administrator or an examiner shall be based upon evidence presented in person or in writing . . ." and (2) ". . . at a hearing called for such purpose." The first part, in effect, prohibits Appellant from using telephone information at the seated interview hearing, and this is the only change from the procedures before this Court. Since the claimant, however, would still not have an opportunity to confront the person submitting a written statement, the allegation of Appellees on this question is still viable, and the change itself is therefore not material to the issues before this Court. The second part, Appellant submits, merely legislatively states the practice of the Appellant which is before the Court and remains un-

*Affidavit will be filed either with written memorandum or upon oral argument if either is permitted.

changed. Thus, the issues as to notice and the rehearing itself remain the same.

II.

Appellant's Participation Before The Legislature.

P.A. 74-339 was presented to the Connecticut Legislature without any participation or testimony by the Appellant or his administration, and the repeal of the Section 14 provisions stated above will be proposed to the 1975 Legislature.*

III.

The Court Should Grant Rehearing To Avoid Further Litigation.

In view of Connecticut's interpretation of said changes, the same basic issues will again be before this Court regardless of which way the District Court rules, since one party or the other will doubtless appeal. Further, Appellant respectfully requests the Court to note that should the Court determine that the changes did not materially affect the issues before this Court, the Court could then decide the case on the briefs and arguments already presented. The Appellant respectfully requests an opportunity to submit a more detailed memorandum on these points.

Respectfully submitted,

CARL R. AJELLO

Attorney General of Connecticut

DONALD E. WASIK

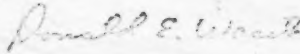
Assistant Attorney General

Attorneys for Appellant-Petitioner

*Affidavit will be filed either with written memorandum or upon oral argument if either is permitted.

CERTIFICATION PURSUANT TO RULE 58(1)

As counsel for the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for any delay.

A handwritten signature in cursive script, appearing to read "Donald E. Wasik".

DONALD E. WASIK

